



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: S. T. Research Corp.

File: B-231752

Date: August 16, 1988

DIGEST

1. Favorable evaluation of unsolicited proposal does not entitle the proposal's submitter to an award; the decision whether to make an award based upon an unsolicited proposal is in the agency's discretion.
2. Protest that agency may have disclosed allegedly proprietary information to competitors is considered premature, where no solicitation has been issued.

DECISION

S. T. Research Corp. (STRC) protests a planned competitive solicitation of the Naval Sea Systems Command for a solution to a "false alarm" problem present in an electronic support measures system. STRC previously submitted an "acceptable" unsolicited proposal for the Navy's requirement and claims that it is therefore entitled to a sole-source contract, since its unsolicited proposal does not fall under any of the bases for rejection set forth in Federal Acquisition Regulation (FAR) § 15.507(a) (FAC 84-5).

We dismiss the protest.

The Navy states that although it internally approved of STRC's proposal, this does not mean the proposal was accepted for award. According to the Navy, STRC only presented a possible solution to the Navy's requirement, and it has reason to believe that other and more cost-effective design approaches may be available through competition. The Navy has not issued a solicitation for this work.

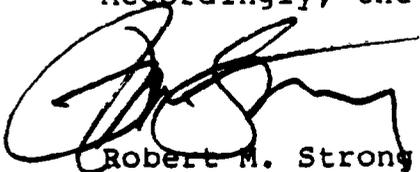
Contrary to STRC's interpretation, FAR § 15.507(a) only sets forth those circumstances where an agency is required to reject an unsolicited proposal; it does not follow that in all other circumstances the agency must accept an

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unsolicited proposal. Mine Safety Appliances Co., B-227839, July 8, 1987, 87-2 CPD ¶ 24. Further, the Navy's internal approval simply constitutes a favorable evaluation which, in itself, does not justify an award without providing for full and open competition. FAR § 15.507(a). The decision whether to make an award based upon an unsolicited proposal is in the agency's discretion, and then only where the requirements of FAR § 15.507(b) are met. Mine Safety Appliances Co., B-227839, supra. In any case, given that one of the objectives of our bid protest function is to ensure full and open competition, we consider it inappropriate, generally, to review a protest which would mandate an agency to procure from a particular firm on a sole-source basis. University of Dayton Research Inst., B-220589, Jan. 30, 1986, 86-1 CPD ¶ 108; DWK Systems Group, Ltd., B-229647, Dec. 10, 1987.

In its comments on the agency report, STRC expresses concern that the Navy has disclosed information proprietary to STRC to three of its competitors. In appropriate circumstances, where it has been clearly established that the government's use of a protester's proprietary data or trade secrets in a solicitation to describe the required product or service violated the protester's proprietary rights, we may recommend that the contracting agency either make a sole-source award to the protester or cancel the solicitation. 49 Comp. Gen. 28 (1969); Aeronautical Instrument and Radio Co., B-224431.3, Aug. 7, 1986, 86-2 CPD ¶ 170. However, our review of such matters is restricted to disclosures in the context of a solicitation. See Aeronautical Instrument and Radio Co., B-224431.3, supra. Since the Navy has not yet issued a solicitation, any protest by STRC on this basis is premature and not for consideration. See DWK Systems Group, Ltd., B-229647, supra.

Accordingly, the protest is dismissed.



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